

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.14555 of 2002

Dated: 31-08-2007

Between:

K. Venkataramana Reddy and others.

.... PETITIONERS

AND

The Special Officer and Competent Authority and others.

.... RESPONDENTS

**THE HON'BLE SRI JUSTICE V.V.S.
RAO**

WRIT PETITION No.14555 of 2002

ORDER:

The background of the case in a nutshell is as

follows. An extent of Acs.45.00 of land in survey Nos.1, 2, 3/1, 3/2 and 4 etc., is owned by M/s.Papaiah Sastry and Suryanarayana Rao. K.Gurumurthy Reddy, the father of the petitioners, was statedly a tenant in respect of Acs.18.39 of land situated at Kancharapalem Village in Visakhapatnam District. The owners alleged that Visakhapatnam Port Trust (VPT) took possession of the land on 29.8.1972 for construction of staff quarters and they were seeking compensation under law. In the meanwhile, the first respondent initiated action under the provisions of the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the Act'), issued suo-motu proceedings on 25.5.1981 declaring Papaiah Sastry as non-surplus holder. It was only in 1981, however, the Government initiated proceedings under the Land Acquisition Act, 1894, at the instance of VPT, who had deposited a sum of Rs.35.00 lakhs. However, in January 1995, the Government suo-motu revised the final order passed by the first respondent under Section 8(4) of the Act vide G.O.Ms.No.21, dated 20.1.1995. This was assailed in Writ Petition No.3102 of 1995 by Papaiah Sastry. This was heard along with Writ Petition No.11754 of 1994. By an order, dated 4.6.1996, this Court set aside G.O.Ms.No.21, dated 20.1.1995, against which, the Government unsuccessfully filed Writ Appeal No.109 of 1997 and Writ Appeal No.292 of 1998. The Special Leave Petitions preferred by the Government were also dismissed by the Supreme Court on 20.10.2000. Two years thereafter, the Government moved applications, being W.A.M.P.No.1879 of 2001 in Writ Appeal No.109 of 1997 and W.A.M.P.No.1880 of 2001 in Writ Appeal No.292 of 1998, praying this Court to recall the order, dated 27.4.2000, whereby and whereunder this Court dismissed the appeals filed by the Government against the judgment of the learned single Judge, dated 4.6.1996, in W.P.Nos.3102 of 1995 and 11715 of 1994. A Division Bench of this Court allowed the applications to recall on 6.3.2002 and the S.L.Ps. preferred by contesting parties were dismissed on 7.3.2007.

Pursuant to the order of this Court, dated 6.3.2002, the first respondent authority issued a notice on 22.7.2002 fixing such enquiry on 25.7.2002. Petitioners allege that the notice sent to them was received by them on 25.7.2002, but, they appeared before the first respondent on the due date and sought time for filing objections. The first respondent refused to grant time and reserved the orders.

The petitioners then filed the present writ petition before this court on 8.8.2002 praying this Court to issue a direction to the first respondent to reopen the matter pursuant to notice, dated 22.7.2002, and afford an opportunity to them to participate in the enquiry. In W.P.M.P.No.18195 of 2002, this Court stayed all further proceedings

before the first respondent including the passing of the final order. Nevertheless, the first respondent passed orders on 11.8.2002. In the said order, it appears, the first respondent held Papaiah Sastry and A.Suryanarayana to be surplus holders of vacant land to an extent of 3.7211 square meters and 3.7827 square meters, respectively. These two persons then preferred appeals before the Commissioner for Urban Land Ceiling. These appeals were allowed on 21.3.2006 and the matter was remanded to the first respondent by the appellate authority to decide the matter afresh after *inter se* dispute between one Papaiah Sastry and Bhagya Lakshmi is settled by the Joint Collector in related proceedings.

In the counter affidavit filed by the first respondent, a broad factual matrix, as noticed hereinabove, is not denied. However, the first respondent states that after receiving notice, dated 22.7.2002, the petitioners submitted objections.

This Court has heard the learned counsel for the petitioners and the learned Assistant Government Pleader for Urban Land Ceiling.

Petitioners claimed that their father was a tenant of Papaiah Sastry and Suryanarayana. They also alleged that the proceedings initiated by the landlords under the Andhra Pradesh (Andhra Area) Tenancy Act, 1956, are pending, and, therefore, without deciding their right "as holders of vacant land", the first respondent cannot declare the owners as surplus or non-surplus holders. The learned Assistant Government Pleader, however, denied this statement.

A perusal of the order of the Division Bench, dated 6.3.2002, in the recall petitions would show that a finding was recorded by the Division Bench that Koyya Gurumurthy Reddy was the tenant of the land to an extent of Acs.18.39. Probably for this reason, the first respondent also issued notice on 22.7.2002 when initial enquiry was conducted. Therefore, there cannot be any objection now for the first respondent to hear the objections filed by the petitioners as alleged, which are admittedly pending. Even if such objections are not filed, it is always open to the petitioners to file such objections/additional objections, if they are so advised, along with the necessary materials. Their claim under the Act can always be considered by the first respondent in accordance with law. Liberty is given to the petitioners to file their objections within a period of two weeks from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of. No costs.

(V.V.S. RAO,J)

31st August, 2007

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